

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

DZHOKHAR TSARNAEV

No. 13-CR-10200-GAO

**STIPULATION OF THE PARTIES TO SUPPLEMENT THE RECORD**

Pursuant to Rule 10(e)(2)(A) of the Federal Rules of Appellate Procedure, the United States of America and defendant Dzhokhar Tsarnaev, by and through their counsel of record, hereby stipulate that the record on appeal should be supplemented with the items listed below and, as supplemented, be certified and forwarded to the United States Court of Appeals for the First Circuit:

1. Exhibit A, attached hereto (under seal and on accompanying CD), is a true and accurate copy of the defense motion to strike provisionally qualified jurors, including exhibits A (chart of juror information) and B (CD of social media printouts), served and filed by hand by the defense on 2/27/15 (see DE 1103 Sealed Motion for Leave To File Under Seal).
2. Exhibit B, attached hereto, is a true and accurate copy of DE 295, the defense motion to suppress, served and filed by hand by the defense on 5/7/14, as well as DEs 295-4 through 295-8, which were not previously file-stamped (see DE 295).

3. Exhibit C, attached hereto (under seal), is a true and accurate copy of sealed exhibits 1-3 to DE 1342, the defense motion for orders to produce materials related to the Waltham investigation for *in camera* review, served and filed by hand by the defense on 4/24/15.
4. Exhibit D, attached hereto (under seal), is a true and accurate copy of the government motion to preclude reference to defense exhibits 3249 and 3249a, served and filed by hand by the government on 5/6/15.
5. Exhibit E, attached hereto (under seal), is a true and accurate copy of the Sealed Order granting DE 50, a defense *ex parte* motion, emailed to defense counsel on 6/4/13 by the Clerk of Court.
6. Exhibit F, attached hereto, is a true and accurate copy of the defense follow-up proposed voir dire questions, served and filed by hand by the defense on 1/16/15 (see 1/16/15 (Day 5) Tr. 7-18).
7. Exhibits G through M are various pleadings for which the parties do not have file-stamped copies. The parties stipulate that the following documents were filed on the listed dates:
  - a. Exhibit G, attached hereto, is a true and accurate copy of DE 517, served and filed by hand by the defense on 8/29/14.
  - b. Exhibit H, attached hereto (under seal), is a true and accurate copy of DE 1432, served and filed by hand by the government on 5/15/15.

- c. Exhibit I, attached hereto (under seal), is a true and accurate copy of DE 1555, served and filed by hand by the government on 10/8/15.
  - d. Exhibit J, attached hereto (under seal), is a true and accurate copy of DE 1616, served and filed by hand by the defense on 10/30/15.
  - e. Exhibit K, attached hereto (under seal), is a true and accurate copy of DE 1697, served and filed by hand by the defense and the government on 4/11/16.
  - f. Exhibit L, attached hereto (under seal), is a true and accurate copy of DE 1716, served and filed electronically by the government on or about 02/02/2017.
  - g. Exhibit M, attached hereto (under seal), is a true and accurate copy of DE 1719, served and filed by hand by the defense on 2/21/17.
8. Exhibit N, attached hereto and titled Exhibits\_Log.htm, is a true and accurate list of the exhibits provided to the jury on the JERS system.
9. Exhibit O, attached hereto, is a true and accurate list of all proffered and admitted exhibits from the guilt and penalty phases of trial.
10. Exhibit P, filed by hand on CD, is a true and accurate copy of a PowerPoint presentation used by the government during its guilt-phase closing argument. When it was played before the jury on 4/6/2015 (see Tr. 95), the

audio recording of the nasheed played over slides 52 through 56 and played for up to 19 seconds.

11. Exhibit Q, attached hereto, is a true and accurate copy of the government's penalty phase opening photo array. Throughout the opening statement, the government displayed the four photographs of the victims, each 4'x3' in size, in a line directly facing the jury, with a fifth 4'x3' photograph in the middle covered with a black cloth. The black cloth was lifted off the fifth photograph, which was a blown-up screenshot of Tsarnaev in the jail cell at arraignment. This is marked in the transcript as 'photograph displayed' 4/21/15 (Day 47) Tr. 34.

12. Exhibit R, attached hereto, is a true and accurate list of various government discovery productions.

So stipulated.

Andrew E. Lelling  
United States Attorney

Dated: 10/19/2018

By: \_\_\_/s/ Nadine Pellegrini\_\_\_  
Nadine Pellegrini  
Assistant U.S. Attorney

Dated: 10/19/2018

\_\_\_/s/ David Patton\_\_\_\_\_  
David Patton, Esq.  
Clifford Gardner, Esq.  
Gail K. Johnson, Esq.  
Attorneys for Defendant Dzhokhar Tsarnaev

**Certificate of Service**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on October 21, 2018.

/s/ David Patton